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SEP 28 2005

OFFICE OF PETITIONS

In re Application of :
William McBride Fesq, et al. :
Application No. 10/085,425 : ON PETITION
Filed: February 28, 2002 :
Attorney Docket No. None :

This is a decision on the renewed petition, filed August 19, 2005, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

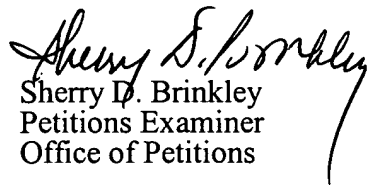
The application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed June 1, 2004. This decision precedes the mailing of a Notice of Abandonment. On March 17, 2005, applicant submitted, *inter alia*, a petition to revive under 37 CFR 1.137(b), an amendment and a 3-month petition for extension of time. The petition was dismissed in a decision mailed June 20, 2005, since the petition was not properly signed. In response, on August 19, 2005, a ratification of the unsigned petition was filed.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the original petition, in conjunction with renewed petition, will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the petition.

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Since, no extension of time fees are due on a petition for revival, the \$510 extension fees are refundable. Any request for refund must include a copy of this decision and be mailed to Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450 or faxed to the Customer Service Help Desk at (571) 273-6500.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

The application file is being forwarded to Technology Center AU 2162 for consideration of the amendment filed March 17, 2005.


Sherry D. Brinkley
Petitions Examiner
Office of Petitions